

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP
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Attorney for BANK OF AMERICA, N.A.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE:	§ CASE NO. 16-42573-RFN-13
	§
RAFAEL PULIDO, JR and	§
FELICIA MARIE PULIDO,	§
Debtor	§ CHAPTER 13
	§
BANK OF AMERICA, N.A. ,	§
Movant	§ HEARING DATE: 07/12/2017
	§
v.	§ TIME: 09:30 AM
	§
RAFAEL PULIDO, Co-Debtor;	§
and TIM TRUMAN, Trustee	§
Respondents	§ JUDGE RUSSELL F. NELMS

**MOTION OF BANK OF AMERICA, N.A.
FOR RELIEF FROM STAY AGAINST CO-DEBTOR(S) PURSUANT TO 11 U.S.C.
§1301(a)**

NOTICE - RESPONSE REQUIRED
**PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS
REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY
BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT
MAY BE ENTERED BY DEFAULT.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE
UNITED STATES BANKRUPTCY COURT AT 501 WEST 10TH STREET, FORT
WORTH, TX 76102-3643 BEFORE CLOSE OF BUSINESS ON JULY 06, 2017, WHICH
IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL
BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR
EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A
DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT
CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, BANK OF AMERICA, N.A., by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §1301(c) in accordance with Rule 4001 of the Bankruptcy Rules.

2. On or about July 01, 2016, Debtors (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C.

3. At the time of filing the Chapter 13 petition, Movant held a Note executed on April 27, 2007, by RAFAEL PULIDO in the original amount of ONE HUNDRED SIXTY-FOUR THOUSAND EIGHT HUNDRED DOLLARS AND ZERO CENTS (\$164,800.00) with interest thereon at the rate of 3.750% per annum. A true and correct copy of the Note is attached hereto as Exhibit "A".

4. The indebtedness is secured by a Deed of Trust dated April 27, 2007 and executed by FELICIA MARIE PULIDO and RAFAEL PULIDO on real estate with all improvements known as:

THE FOLLOWING DESCRIBED REAL PROPERTY SITUATE IN THE CITY OF MANSFIELD, COUNTY OF TARRANT, AND STATE OF TEXAS, TO WIT:

LOT 9, BLOCK 1, OF HOLLAND ESTATES, AN ADDITION TO THE CITY OF MANSFIELD, TARRANT COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CABINET A, SLIDE 6428, PLAT RECORDS, TARRANT COUNTY, TEXAS.

BY FEE SIMPLE DEED FROM LEGCY/MONTEREY HOMES, L.P TO RAFAEL PULIDO AND FELICIA M ROCHA, HUSBAND AND WIFE AS SET FORTH IN INSTRUMENT NO. D205060160, DATED 3/1/2005 AND RECORDED ON 3/3/2005, TARRANT COUNTY RECORDS.

THE SOURCE DEED AS STATED ABOVE IS THE LAST RECORD OF VESTING FILED FOR THIS PROPERTY. THERE HAVE BEEN NO

VESTING CHANGES SINCE THE DATE OF THE ABOVE REFERENCED SOURCE.

A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B".

5. RAFAEL PULIDO is a Co-Debtor and liable with the Debtor on the debt referenced in Exhibits "A" and/or "B". Under the terms of the Agreement, Movant has a right to collect all payments from Co-Debtor to the extent they are not made by the Debtor at the time they are due.

6. The filing of the petition for an order of relief under Chapter 13 has automatically stayed Movant, pursuant to 11 U.S.C. §1301(a), from proceeding to collect the debt. Continuation of the Stay under §1301(a) will cause irreparable harm to Movant.

7. Co-Debtor failed to maintain current the post-petition payments due under the Note and is presently in arrears for 3 payments through and including the June 1, 2017 payment.

8. The outstanding indebtedness to Movant is \$174,003.70 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Deed of Trust.

9. In accordance with the terms of the Note and Deed of Trust, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

10. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Deed of Trust.

11. The Movant further seeks relief in order to, at its option, offer, provide and enter into any potential forbearance agreement, loan modification, refinance agreement or other loan workout/loss mitigation agreement. The Movant may contact the Debtor via telephone or

written correspondence to offer such an agreement. Any such agreement shall be non-recourse unless included in a reaffirmation agreement.

12. Alternatively and by reason of the foregoing, Movant requests the Court condition the stay under 11 U.S.C. §1301(a) so that it will lift upon termination of the Stay under 11 U.S.C. §362(a).

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant or conditioning the Stay to lift upon termination of the Stay under §362(a). Movant further requests that it be reimbursed for it's reasonable post-petition attorneys fees and expenses and granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

BY: /s/ PAUL KIM

6/22/2017

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ATTORNEY FOR MOVANT

CERTIFICATE OF CONFERENCE

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, represents the creditor on the foregoing Motion. The undersigned, an attorney, employed by BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, states that prior to filing the foregoing motion he/she did the following:

Made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel and/or the Trustee.

NOTES: Paul Kim sent an email to Eric Maskell regarding the property. He advised that the motion was opposed.

Date of Conference Call: June 22, 2017 11:45 a.m.

BY: /s/ PAUL KIM 6/22/2017
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ATTORNEY FOR MOVANT

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2017, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

/s/ PAUL KIM

06/22/2017

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ATTORNEY FOR MOVANT

DEBTORS:

RAFAEL PULIDO, JR
4005 ALAMO DRIVE
MANSFIELD, TX 76063

FELICIA MARIE PULIDO
4005 ALAMO DRIVE
MANSFIELD, TX 76063

CO-DEBTOR:

RAFAEL PULIDO
4005 ALAMO DRIVE
MANSFIELD, TX 76063

TRUSTEE:

TIM TRUMAN
6851 N.E. LOOP 820, SUITE 300
N RICHLAND HILLS, TX 76180

US TRUSTEE:

1100 COMMERCE STREET
ROOM 976
DALLAS, TX 75242

DEBTOR'S ATTORNEY:

CHRISTOPHER MARVIN LEE
8701 BEDFORD EULESS ROAD
SUITE 510
HURST, TX 76053

PARTIES IN INTEREST:

None

PARTIES REQUESTING NOTICE:

SYNCHRONY BANK
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